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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/807,893	03/24/2004	Rory Britz	DT-6778	5352
30377	7590	08/03/2007	EXAMINER	
DAVID TOREN, ESQ. ABELMAN FRAYNE & SCHWAB 666 THIRD AVENUE NEW YORK, NY 10017-5621			HODGE, ROBERT W.	
		ART UNIT		PAPER NUMBER
		1745		
		MAIL DATE		DELIVERY MODE
		08/03/2007		PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)
	10/807,893	BRITZ, RORY
	Examiner	Art Unit
	Robert Hodge	1745

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 18 June 2007.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-5 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-5 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) Notice of Informal Patent Application
- 6) Other: _____

DETAILED ACTION***Response to Arguments***

Applicant's arguments filed 6/18/07 have been fully considered but they are not persuasive. Applicants state "that there is no hint, teaching, suggestion, or motivation in the cited are to use a spring for a latching mechanism of a battery pack comparable to the present invention recited in claim 1, including a bi-convex leaf spring". Applicants than further admit that "bi-convex shaped leaf spring is known for use with flap covers as described in DE 199 03 263" and provide other examples of well-known uses of bi-convex shaped leaf springs. This is not found persuasive for at least the reason that applicants admit that bi-convex shaped leaf springs are well-known in the art and used for a variety of applications and further because as already outlined in the grounds of rejection White already teaches a leaf spring used similarly to the instantly claimed invention and AAPA teaches the variety of applications for a biconvex shaped leaf spring. Therefore as was outlined in the motivation statement, it is still the Examiners position that a person having ordinary skill in the art would in fact be motivated to substitute a biconvex leaf spring for the regular leaf spring of White in order to provide a latching mechanism that would allow for easy operation of the latching mechanism so that the operator can easily remove the battery pack from the power tool without any difficulties that would be related to harder tougher leaf springs. Therefore the rejections will be maintained.

The Examiner acknowledges the amendments to the Specification and Claims as correcting matters of form and therefore the amendments have been entered.

Information Disclosure Statement

The information disclosure statement filed 6/18/07 fails to comply with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609 because EP 1069630 was not provided. It has been placed in the application file, but the information referred to therein regarding EP 1069630 has not been considered as to the merits. Applicant is advised that the date of any re-submission of any item of information contained in this information disclosure statement or the submission of any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the statement, including all certification requirements for statements under 37 CFR 1.97(e). See MPEP § 609.05(a).

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,500,581 hereinafter White in view of applicants admitted prior art (AAPA).

White teaches a battery pack module 10, that can be inserting into a housing part of a powered hand tool along a direction of insertion (column 1, lines 40-42, column 2, lines 1-2), having two latching hooks 18 (column 1, line 53), with at least one leaf spring 18S, that biases the latching hooks in the latched position (column 1, lines 46-47), which are connected to finger pressure surfaces 18B, said latching mechanism can be moved from a resting position (i.e. latched) to a released position (i.e. unlatched)

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(column 1, lines 48-50) and both sides of the battery pack are identically assembled to have identical parts which would have the same characteristics and said leaf spring extends over a longitudinal zone of the finger pressure surface 18B (see also abstract, figure 1, column 1, line 12 – column 2, line 67). The Examiner notes that because the spring is biased to a latched position, it would inherently be energetically unstable in a released position, it is also quite clear from the figures that the leaf spring is a substantially thin metal and would therefore be low-damping as defined by applicant in their specification.

White does not teach that the leaf spring is a biconvex leaf spring.

AAPA teaches that it is well known in the art for closure systems to use biconvex shaped leaf springs (paragraph [0003]).

At the time of the invention it would have been obvious to a person having ordinary skill in the art to include a biconvex leaf spring in White as taught by AAPA in order to provide a latching mechanism that would allow for easy operation of the latching mechanism so that the operator can easily remove the battery pack from the power tool without any difficulties that would be related to harder tougher leaf springs.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

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TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert Hodge whose telephone number is (571) 272-2097. The examiner can normally be reached on 8:00am - 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Ryan can be reached on (571) 272-1292. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

RWH



JONATHAN CREPEAU
PRIMARY EXAMINER